THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No. 7882 of 1996

DATED: 23.03.2006

Between:

M.Bala Narasimha Chary.

... PETITIONER

AND

Government of A.P., and another.

... RESPONDENTS

ORDER:

This Writ Petition is filed challenging the action of the Hyderabad Urban Development Authority, 2nd respondent herein, in demanding the enhanced development charges, pursuant to G.O.Ms.No.51, Municipal Administration and Urban Development Department, dated 05.02.1996 (for short 'the G.O.).

The petitioner submitted an application on 08.06.1995 to the 2nd respondent, for sanction of a lay out. The application was processed, and ultimately, through order, dated 12.01.1996, the petitioner was required to deposit a sum of

Rs.25,244/-, on or before 10.02.1996. The petitioner claims to have deposited the amount on 09.02.1996. The 2nd respondent demanded a further sum of Rs.65,998/-, through letter, dated 24.02.1996, on the basis of the G.O.

In the counter affidavit filed on behalf of the 2nd respondent, it is stated that this Court granted interim order on 05.04.1996, directing the petitioner to deposit the demanded amount, and the 2nd respondent, in turn, was directed to process the application; and despite the same, the petitioner did not choose to pay the amount. It is stated that the application has since been rejected on 29.01.2000, on account of non-payment of the amount, as directed by this Court. It is also urged that the petitioner is under obligation to pay the amount as per the G.O., since by the time, any permission came to be granted to him, the rates were revised.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

After processing the application of the petitioner, the 2nd respondent issued a letter, dated 12.01.1996, requiring the petitioner to deposit a sum of Rs.25,244/- by 10.02.1996. That amount represented the development charges, according to the rates prevailing, at the relevant point of time. The petitioner complied with the demand on 09.02.1996. Therefore, the 2nd respondent was under obligation to release the lay out, once the amount was deposited. However, two weeks thereafter, the 2nd respondent demanded a further sum of Rs.65,998/-, on the strength of the G.O.

The 2nd respondent would have been entitled to demand the development charges, as per the revised rates, if only, the application was submitted by the petitioner, subsequent to the date of G.O., or no demand of development charges was made by 05.02.1996. It is not in dispute that the 2nd respondent demanded a sum of Rs.25,244/- as long back as on 12.01.1996 and the

petitioner complied with the same, within the stipulated time. The fact that between the date of demand and the date of payment, some development has taken place, hardly constitutes any ground for the respondent herein, to revise the rates. In ***G.Pochaiah vs. Government of Andhra Pradesh***, a learned Single Judge of this Court held that the said G.O. does not apply to the applications, which have already been processed. The fact that the application was rejected, on the ground that the condition imposed by this Court was not complied with, cannot be treated as a basis to deny the petitioner, for what he was otherwise entitled to in law.

Hence, the Writ Petition is allowed and the 2nd respondent is directed to take further steps, on the application submitted by the petitioner, without demanding any further amount of development charges. The order dated, 29.01.2000, rejecting the application of the petitioner, shall be treated as *non est*. There shall be no order as to costs.

_____

23.03.2006

Jsu